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5 Attorney for SAMUEL E. SINGH

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8   UNITED STATES BANKRUPTCY COURT

9   SOUTHERN DISTRICT OF CALIFORNIA

10 In Re:)   CASE NO.: 08-07659-T7
)
11 SAMUEL E. SINGH   )   TRIAL BRIEF OF
)   DEFENDANT, SAMUEL E. SINGH
12   Debtor   )
)
13 _____)
)   ADVERSARY NO.: 08-90513
14 MARCUS FAMILY LAW CENTER, PLC   )
)
15   Plaintiff,   )
)
16 -vs-   )
)
17 SAMUEL E. SINGH,   )
)
18   Defendant.   )
)
19 _____)
)
20 SAMUEL E. SINGH   )
)
21   Cross-Claimant,   )
)
22 -vs-   )
)
23   )
    MARCUS FAMILY LAW CENTER, PLC   )
24 AND ETHAN MARCUS   )
)
25   Cross-Defendant   )
)
26 _____)

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1. Defendant's Proposed Witnesses

    a.   Samuel Singh. That he retained the Marcus firm, MFLC, and that he signed a one-page retainer agreement. No other signed documents were provided to him at the time of retention nor was there any proof of service of any of those documents. He will testify that he did incur legal fees and that he paid many and wanted the matter to stop as he had no more money. When there was an inquiry about settlement he was advised to file a bankruptcy which he did.

2. Copies of Trial Exhibits

    A   Retainer agreement of 1 page signed by debtor-defendant

    B   Plaintiff's billing statements. Defendant suggests a recap of all by date in lieu of the numerous documents.

3. Stipulated Facts

    That defendant signed a retainer agreement with MFLC, a one-page document with his signature only on that page.

    That defendant incurred various billing statements during representation by MFLC as evidenced in Exhibit B.

4. Trial Brief

    The specific issue of fact is proof regarding the 523(a)(2) allegation or how services were obtained by a false pretense, false representation or actual fraud. The next issue is whether or not debtor intentionally attempted to defraud this creditor under 727(a)(2)(5). Defendant submits that plaintiff has not met his burden of proof regarding this fact which is crucial to

1 proving his case and causes of action. In discovery plaintiff

2 did not even list a date of any alleged false promise made and

3 the majority of defendant's case will be cross-examination of

4 witnesses. At best plaintiff had a claim on an antecedent debt

5 which is dischargeable. Cross-claimant will submit that

6 plaintiff brought this action to harass him knowing the case is

7 without legal merit and he seeks his attorney fees under 524(d)

8 or per the cross-claim. Defendant reserves the right to amend

9 this statement and will produce his legal argument at the time of

10 hearing. Any prior argument would prejudice his case.

11   Respectfully submitted,

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13 Dated: October 20, 2009   JOHN F. LENDERMAN
                                    Attorney for SAMUEL E. SINGH

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UNITED STATES BANKRUPTCY COURT
Southern District of California

In re

SAMUEL E. SINGH

                        Debtor

MARCUS FAMILY LAW CENTER, PLC

                        Plaintiff

v.

SAMUEL E. SINGH

                        Defendant.

Bankruptcy Case No.
08-07659-T7

Adversary Proceeding No.
08-90513

PROOF OF SERVICE

I, <u>Monica M. Escalera</u> certify that I am, and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made.

I further certify that the service of TRIAL BRIEF OF DEFENDANT, SAMUEL E. SINGH was made on <u>October 20, 2009,</u> by:

[X]   Mail Service - Regular, first class United States mail, postage fully pre-paid, addressed to:

        EDGAR GARCIA
        MARCUS FAMILY LAW CENTER, PLC
        732 State Street
        El Centro, CA 92243

Under penalty of perjury, I declare that the foregoing is true and correct.

<u>October 20, 2009</u>
      [Date]

                              [Signature]